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Australia, Austria, Belgium, Bulgaria, Canada, Croatia, Cyprus, Czech Republic, Denmark, Estonia, Finland, France, Germany, Greece, Hungary, Iceland, Ireland, Israel, Italy, Latvia, Lithuania, Luxembourg, Malta, Netherlands, New Zealand, Norway, Poland, Portugal, Republic of Moldova, Romania, Slovakia, Slovenia, Spain, Sweden, the former Yugoslav Republic of Macedonia, United Kingdom of Great Britain and Northern Ireland and United States of America: draft resolution

Situation of human rights in the Sudan

The General Assembly,

Reaffirming that all Member States have an obligation to promote and protect human rights and fundamental freedoms and the duty to fulfil the obligations they have undertaken under the various instruments in this field, as well as to respect and ensure respect for international humanitarian law,

Expressing its firm belief that a peaceful settlement of the conflicts in the Sudan, which is a responsibility of all parties to the peace talks, will greatly contribute to respect for human rights in the Sudan,

Expressing grave concern at the statements of the United Nations High Commissioner for Human Rights and the Special Adviser to the Secretary-General on the Prevention of Genocide to the Security Council on 30 September 2004 that crimes against humanity, war crimes and breaches of the laws of war had probably occurred on a large and systematic scale in the Darfur region,

Taking note of the report of the Special Rapporteur of the Commission on Human Rights on extrajudicial, summary or arbitrary executions on her mission to the Sudan,[1] carried out from 1 to 13 June 2004,

Taking note also of Security Council resolutions 1547 (2004), 1556 (2004) and 1564 (2004), the recommendations of the Special Representative of the Secretary-

[1] E/CN.4/2005/7/Add.2.

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General for the Sudan[2] and the reports of the Secretary-General to the Security Council on the Sudan,[3].

1. *Welcomes*:

(a) The leadership role and the engagement of the African Union, as illustrated by the efforts of the President of the African Union, the Chairperson of the African Union Commission and the Special Envoy of the African Union for Darfur, in addressing the situation in Darfur;

(b) The recommencement of the Intergovernmental Authority on Development peace talks in Kenya on 7 October 2004, the leadership role of the Intergovernmental Authority and the efforts of the Government of Kenya in mediating the talks between the Government of the Sudan and the Sudan People's Liberation Movement; and the recommitment of the parties to the prompt completion of the peace process;

(c) The continued efforts of the African Union to facilitate the peace talks concerning Darfur between the Government of the Sudan and the Sudan Liberation Movement and the Justice and Equality Movement, as well as the recommencement of the peace talks on 21 October 2004;

(d) The visit to the Sudan in August 2004 of the independent expert of the Commission on Human Rights on the situation of human rights in the Sudan, who was appointed in July 2004 in accordance with Commission on Human Rights decision 2004/128 of 23 April 2004;[4]

(e) The establishment and immediate dispatch of an international commission of inquiry by the Secretary-General, upon the request of the Security Council, in order to immediately investigate reports of violations of international humanitarian law and human rights law in Darfur by all parties, to determine also whether or not acts of genocide have occurred and to identify the perpetrators of such violations with a view to ensuring that those responsible are held accountable;

(f) The expansion of the Office of the United Nations High Commissioner for Human Rights in the Sudan to include a monitoring role aimed at improving respect for human rights and humanitarian law and assisting in national capacity-building in the area of the promotion and protection of human rights, including an initial increase in the number of human rights monitors in Darfur from eight to at least sixteen;

(g) The work of United Nations agencies and other international organizations operating in the Sudan and Chad and their efforts to meet the protection and assistance needs of the crisis-affected populations;

(h) The visits to the Sudan of the United Nations High Commissioner for Human Rights, the United Nations High Commissioner for Refugees, the Special Adviser to the Secretary-General on the Prevention of Genocide and the Special Rapporteur of the Commission on Human Rights on violence against women in

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[2] See S/PV.5050.

[3] S/2004/453, S/2004/703, S/2004/763, and S/2004/787.

[4] To be issued as *Official Records of the Economic and Social Council, 2004, Supplement No. 3* (E/2004/23), chap. II, sect. B.

September 2004, as well as the visit of the Representative of the Secretary-General for Internally Displaced Persons;

(i) The fact-finding mission to Darfur of the African Commission on Human and People's Rights in July 2004;

(j) The accession of the Government of the Sudan to the Convention on the Prevention and Punishment of the Crime of Genocide;

2. *Reminds* the Government of the Sudan of its obligations to prevent and punish any crime of genocide;

3. *Expresses grave concern* at:

(a) The widespread and grave violations of human rights and international humanitarian law in Darfur and ongoing atrocities committed against civilians in Darfur, including forced displacement and arbitrary executions;

(b) The continuous violations of human rights throughout the Sudan, within and outside the framework of the conflicts, in particular the occurrence of arbitrary arrests and detentions, forced or involuntary disappearances and torture and other cruel, inhuman or degrading forms of treatment or punishment;

(c) Violations of the rights of women and girls, inter alia, through sexual violence, including rape and its use as a weapon of war, as well as through female genital mutilation and discrimination both in law and in practice;

(d) The ongoing recruitment and use of child soldiers by all parties to the conflict contrary to international law;

(e) The use of the death penalty contrary to the obligations assumed by the Government of the Sudan under the relevant provisions of the International Covenant on Civil and Political Rights[5] and other human rights instruments, including the imposition of death sentences without legal representation and summary executions;

(f) The restrictions on freedom of thought, conscience, religion and belief, the restrictions on freedom of association, assembly, opinion and expression, the lack of political pluralism and restrictions on political freedom;

4. *Calls upon* the Government of the Sudan:

(a) To take all measures necessary to actively promote and protect human rights and international humanitarian law and to respect the rule of law throughout the Sudan, to implement its obligations under the International Covenants on Human Rights[5] and other human rights treaties to which it is a party and to implement its obligations under the Geneva Conventions of 12 August 1949 for the protection of victims of war[6] and other relevant instruments of international humanitarian law;

(b) To immediately take all steps necessary to stop all violence and atrocities, including sexual violence against women and girls, to ensure the protection of civilians in Darfur and to cease all support, including the provision of supplies, to the Janjaweed militias;

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[5] Resolution 2200 A (XXI), annex.

[6] United Nations, *Treaty Series*, vol. 75, Nos. 970-973.

(c) To end the climate of impunity in Darfur by identifying and bringing to justice all those responsible, including members of popular defence forces and Janjaweed militias, for the widespread abuses of human rights and violations of international humanitarian law;

(d) To create a secure environment that would facilitate the return of displaced persons, and to ensure that all returns by internally displaced persons and refugees are voluntary and carried out in conditions of safety and dignity;

(e) To fulfil immediately all of the commitments it made in the joint communiqué issued by the Government of the Sudan and the United Nations on 3 July 2004;[7]

(f) To implement the recommendations listed in the report of the Special Rapporteur of the Commission on Human Rights on extrajudicial, summary or arbitrary executions on her mission to the Sudan;[1]

(g) To fulfil its commitments to ratify the Convention against Torture and Other Cruel, Inhuman or Degrading Treatment or Punishment,[8] and to sign and ratify the Convention on the Elimination of All Forms of Discrimination against Women[9] and the Optional Protocols to the Convention on the Rights of the Child on the involvement of children in armed conflict and on the sale of children, child prostitution and child pornography;[10]

(h) To hold those responsible for violations of human rights and international humanitarian law, as well as crimes against humanity, accountable through appropriate national and international judicial mechanisms;

(i) To promote and give full effect to the Declaration on the Right and Responsibility of Individuals, Groups and Organs of Society to Promote and Protect Universally Recognized Human Rights and Fundamental Freedoms;[11]

(j) To allow human rights and civil society organizations to register and operate freely throughout the country;

(k) To implement judicial reform so as to apply constitutional guarantees for fair trials throughout the country;

5. *Calls upon* the parties to the conflict in Darfur:

(a) To provide all necessary support to and cooperate fully with the mission of the African Union in Darfur;

(b) To provide all necessary support to and cooperate fully with the mission of the Special Representative of the Secretary-General for the Sudan;

(c) To provide all necessary support to and cooperate fully with the independent expert of the Commission on Human Rights on the situation of human rights in the Sudan and the Office of the United Nations High Commissioner for Human Rights in the Sudan in their monitoring role aimed at improving respect for

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[7] S/2004/635, annex.
[8] Resolution 39/46, annex.
[9] Resolution 34/180, annex.
[10] Resolution 54/203, annexes I and II.
[11] Resolution 53/144, annex.

human rights and humanitarian law and assisting in national capacity-building in the area of the promotion and protection of human rights;

(d) To provide all necessary support to and cooperate fully with the International Commission of Inquiry for Darfur established by the Secretary-General pursuant to Security Council resolution 1564 (2004) in order to facilitate its investigations concerning violations of international humanitarian law and human rights law in Darfur, and to determine also whether or not acts of genocide have occurred and to identify the perpetrators of such violations with a view to ensuring that those responsible are held accountable;

(e) To provide the necessary support to and cooperate fully with all international agencies and humanitarian organizations in order to ensure immediate, full, safe and unhindered access in Darfur and elsewhere in the Sudan aimed at delivering humanitarian assistance to and promoting the protection of all civilians in need;

(f) To cease all violence, cooperate with international humanitarian relief and monitoring efforts and ensure compliance with international humanitarian law, and to facilitate the safety and security of humanitarian workers;

6. *Urges*:

(a) The Government of the Sudan, the Sudan Liberation Movement and the Justice and Equality Movement to respect and fully implement in Darfur the ceasefire agreement signed at N'Djamena on 8 April 2004 and to reach a political settlement to the dispute in Darfur;

(b) The Government of the Sudan and the Sudan People's Liberation Movement to conclude expeditiously the Intergovernmental Authority on Development peace process;

(c) All parties in the Sudan to put an immediate end to the recruitment and use of child soldiers and children in armed conflict contrary to international law, bearing in mind that, under the Convention on the Rights of the Child and its Optional Protocol on the involvement of children in armed conflict, children under 18 years of age are entitled to special protection;

7. *Calls upon* the international community to expand its support for activities aimed at improving respect for human rights and humanitarian law, especially the mission of the African Union, to continue its support for the peace process in the Sudan and continue to monitor closely the human rights situation in the Sudan.